

FILED
UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

08 SEP -9 AM 10:00

CLERK - LAS CRUCES

UNITED STATES OF AMERICA,

Plaintiff,

v.

CR 99-0787 JP

BETHANY ANDERSON
A/K/A BETHANY SERNA,

Defendant,

and

UNIQUE FOODS LLC
D/B/A TOUCAN MARKET
AND ITS SUCCESSORS OR
ASSIGNS,

Garnishee.

PROPOSED FINDINGS AND RECOMMENDED DISPOSITION

This matter is before me on the Government's Application for Writ of Garnishment. (Doc. 193.) Garnishee filed a letter in answer to the Application. (Doc. 195.) Defendant filed a Request for Hearing. (Doc. 196) On August 21, 2008, a Notice of Hearing was entered, setting a hearing on September 5, 2008, at 10:00 a.m. (Doc. 197.) Neither Garnishee nor Defendant appeared for the hearing.¹

The record reflects that the Court entered a Declaration of Bond Forfeiture and Judgment on May 22, 2001 against Defendant and her surety in the amount of \$50,000, and that Defendant is

¹ Defendant called my courtroom deputy on September 3, 2008, seeking a continuance of the hearing. She was advised that the hearing would not be rescheduled unless she filed a motion for continuance. No motion for continuance has been filed.

currently employed by and earns bi-weekly wages from Garnishee. (Doc. 174, 195.) At the hearing, the Government submitted a proposed Order of Garnishment, which would order Garnishee to pay 25% of Defendant's net wages, after deduction of statutory withholdings, each pay period.²

The record reflects that the Government has complied with the Federal Debt Collection Procedures Act. *See* 28 U.S.C. §§ 3202, 3205. Furthermore, no party has offered any reason as to why garnishment is inappropriate. I therefore recommend that the Order of Garnishment be signed and entered by the Court.

THE PARTIES ARE NOTIFIED THAT WITHIN 10 DAYS OF SERVICE of a copy of these Proposed Findings and Recommended Disposition they may file written objections with the Clerk of the District Court pursuant to 28 U.S.C. § 636 (b)(1). A party must file any objections with the Clerk of the District Court within the ten-day period if that party wants to have appellate review of the Proposed Findings and Recommended Disposition. If no objections are filed, no appellate review will be allowed.


WILLIAM P. LYNCH
UNITED STATES MAGISTRATE JUDGE

² A copy of the Order of Garnishment is attached to these Proposed Findings and Recommended Disposition.

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,

Plaintiff,

vs.

CRIMINAL NO. 99-787JAP

BETHANY ANDERSON a/k/a
BETHANY SERNA,

Defendant.

and,

UNIQUE FOODS LLC d/b/a
TOUCAN MARKET
AND ITS SUCCESSORS OR ASSIGNS
ATTENTION: PAYROLL,

Garnishee.

ORDER OF GARNISHMENT

A Writ of Garnishment, directed to Garnishee, has been duly issued and served upon the Garnishee. Pursuant to the Writ of Garnishment, the Garnishee has filed an Answer to the Writ stating that at the time of the service of the Writ, Garnishee had in its possession, custody or under its control, personal property belonging to and due to defendant, and that Garnishee was indebted to Defendant in the bi-weekly sum of \$495.00 net wages for the pay period ending July 26, 2008.

IT IS THEREFORE ORDERED that Garnishee pay the sum of \$123.75, or the equivalent to 25% percent of Defendant's net wages after deduction of statutory withholdings each pay period, to Plaintiff, and to continue said payments until the debt to the Plaintiff is paid in full or until the Garnishee no longer has custody, control or possession of any property belonging to the Defendant, or until further Order of this Court. **Make checks payable to Clerk, U.S. District Court, Court Number: 99-CR-787JAP, and mail to the Clerk, U.S. District Court at 333 Lomas Boulevard NW, Suite 270, Albuquerque, New Mexico 87102.**

IT IS FURTHER ORDERED that Garnishee will immediately notify Plaintiff of any change in Defendants employment status, including termination, either voluntary or involuntary.

UNITED STATES MAGISTRATE JUDGE

Submitted by:

GREGORY J. FOURATT
United States Attorney
District of New Mexico

/s/ JOHN ZAVITZ
JOHN ZAVITZ
Assistant U.S. Attorney